


**WASTE EVALUATION & ENFORCEMENT BRANCH CHIEF  
ACTION REQUEST**

**To:** Lorraine Van Kekerix, Branch Chief  
Waste Evaluation and Enforcement Branch

**From:**   
Georgianne Turner, Section Manager  
Solid Waste Enforcement Section

**Prepared By:** Paul Saldana, Solid Waste Enforcement Section

**Request Date:** December 21, 2011

**Action By:** December 23, 2011

**Decision Subject:** Consideration of an Extension to the Compliance Schedule Due Date for a Facility included on the Inventory of Solid Waste Facilities Which Violate State Minimum Standards (Inventory), Brawley Solid Waste Site, Facility No. 13-AA-0008, Imperial County

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**SUMMARY**

The facility was included on the Inventory for ongoing violations of Title 27 California Code of Regulations (27 CCR), Section 20921 – Gas Monitoring and Control and 27 CCR 21110 – Time Frame for Closure on June 16, 2010 and for CCR 20937 – Reporting and Control of Excessive Gas Concentrations on October 14, 2010. In response, the Imperial County LEA issued a Notice and Order (N&O) to the operator, which included a final compliance date of October 18, 2011 to control the migration of landfill gas at the permitted facility boundary and close the facility in accordance with approved Final Closure and Postclosure Maintenance Plans (FCPMP).

In an effort to comply with the N&O, the operator completed a Landfill Gas Pilot Study to evaluate the size and extent of a permanent landfill gas collection and control system and plans to install and implement the system by January 30, 2012. Additionally, the operator submitted a revised FCPMP, dated November 2011, which is currently under technical review by the Regional Water Quality Control Board, LEA and CalRecycle. On November 2, 2011, the operator submitted correspondence to the LEA documenting the above progress and requested additional time to attain full compliance. The operator's proposed schedule does not anticipate complete compliance until December 19, 2013; approximately three and one half years from the date the facility was included on the Inventory.

Title 14 CCR 18365 allows the LEA to issue a compliance schedule with a final compliance date beyond two years from the date the facility is included on the Inventory, only upon approval of CalRecycle. Therefore, on December 8, 2011, the LEA submitted a request to CalRecycle requesting a deadline extension one year beyond the two years allowed for in 14 CCR 18365. If the extension is



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approved, the LEA will issue a Notice and Order for Penalty Assessment (NOPA) to address the ongoing violations with a final compliance date of June 16, 2013. The accrued penalties provided in the NOPA will be held in abeyance pending full compliance with new time frames provided in the NOPA.

### **OPTIONS**

1. Approve the one-year extension for the proposed compliance due date to June 16, 2013.
2. Deny the extension to the compliance due date.

### **ANALYSIS AND FINDINGS**

#### **Background**

The Brawley Solid Waste Site is owned by the County of Imperial and operated by the County of Imperial Department of Public Works.

Several years ago the facility had ongoing violations for inadequate intermediate cover in areas adjoining the New River which resulted in the landfill shutting down on February 10, 2007. Since then, the LEA has taken numerous actions to compel the operator to close the facility in accordance the regulations. Their first attempt was to have the operator submit a FCPMP. On November 20, 2008, the LEA issued a N&O requiring the submittal of a FCPMP by October 29, 2009. At that time, the facility was not put on the Inventory, since 27 CRR 21780 – Submittal of CPMP is technically not a State Minimum Standard (SMS) pursuant to the definitions in Title 27. In November 2009, the LEA began citing a violation of 27 CCR 21110 – Time Frame for Closure, which is a SMS under the definition, and this resulted in the facility being listed on the Inventory in June 2010. At the time the facility was listed on the Inventory, the LEA had the operator under an amended N&O, issued November 30, 2009, which extended the compliance date to submit a FCPMP to October 18, 2011, due to contracting delays the operator was incurring. The operator did submit a FCPMP in June 2011 (revised November 2011); however, the FCPMP has not yet been approved by the regulatory agencies. Therefore, more time is required to obtain the approvals and implement closure.

The LEA began issuing violations for landfill gas in 2010, and as a result the operator installed a temporary control system for the purposes of completing a Landfill Gas Pilot Study and was able to reduce the concentration of methane at the permitted facility boundary to below five percent. Based on the study, it was determined that a new permanent landfill gas control system is warranted. The new landfill gas control system is scheduled to be approved by the end of December 2011 and installed by January 30, 2012. The LEA's NOPA will require the operator to control the migration of landfill gas by July 30, 2012 (provides six months from the date of installation of the system to make adjustments) and will give the operator until June 2013 to obtain approval from the applicable regulatory agencies needed for the FCPMP, obtain permits from the Regional Water Quality Control Board, Department of Fish & Game and US Army Corp of Engineers, complete California Environmental Quality Act review, and start closure construction in accordance with the schedule in the approved FCPMP. Although this extension request is until June 2013, it is anticipated that an additional time extension may be needed to complete closure construction of the facility. The LEA will closely monitor the operator's efforts to meet the timeframes of the NOPA.



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### **Analysis**

The operator has evaluated measures to control the migration of landfill gas and is nearing the final steps to install a new permanent landfill gas collection and control system. A temporary system was evaluated during the Landfill Gas Pilot Study which controlled the migration of landfill gas to below five percent methane in all landfill gas monitoring wells; however, the operator has decided to implement a permanent system in advance of final closure construction. The operator continues to make progress to work with their consultant to design and install a permanent landfill gas collection and control system by January 30, 2012. Only two landfill gas monitoring wells are currently in violation (above five percent methane) at the deep intervals in wells P-4 and P-4R.

According to the LEA's extension request, the operator has made substantial progress toward the completion of the FCPMP, which involves a relatively complicated design due to its proximity to the New River. The operator submitted an updated FCPMP in June 2011, which was subsequently revised in November 2011 based on comments received from the regulatory agencies. Some of the complexities of the revised FCPMP include a Waste Excavation and Relocation Plan, New River Bank Stabilization System Design, New River Bendway Weir Design (to reduce long-term bank erosion), Alternative Final Cover Design, permanent Landfill Gas Control System Design, and Surface Drainage Control System Design. Other agencies that the operator has to obtain approval from for the FCPMP include the Army Corps of Engineers, Air Pollution Control District, and the Department of Fish and Game.

The NOPA will require the operator to pay the accrued administrative civil penalties immediately upon the directive of the LEA due to a failure to make reasonable progress toward compliance. As part of the NOPA, the LEA will also require that the operator submit monthly written progress reports by the 15<sup>th</sup> day of the following month to demonstrate actions taken to seek compliance with the NOPA.

Staff of CalRecycle's Closure Unit and Permitting Branch reviewed the draft NOPA and did not have any comments on the content or proposed schedule/timelines.

### **FINDINGS:**

Based on the information provided by the LEA, the operator has made progress and a good faith effort in bringing the facility into compliance. Additionally, the landfill closure for this facility involves a relatively complicated design due to its close proximity to the New River and the operator continues to work with the respective agencies to get the FCPMP approved. In addition, based on the factors set forth in 14 CCR 18084, the operator has made a good faith effort and the LEA is taking appropriate enforcement action. Therefore, it is reasonable to grant the additional time to bring the facility into full compliance in order to implement the new landfill gas control system, submit FCPMP which meets the regulatory requirements of all agencies and initiate closure construction within time frames provided in the proposed NOPA. Although there is a long compliance history to get the facility closed, staff supports the LEA's request to extend the compliance timeframes based on the progress the current Public Works Director is making to bring the facility into compliance and close the facility in accordance with all applicable standards.

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**RECOMMENDATION**

CalRecycle staff recommend that the facility be granted a one-year extension to the final compliance beyond the two years from the facility being included on the Inventory, pursuant to 14 CCR 18365(b).

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**BRANCH CHIEF ACTION:**

On the basis of the information in this Action Request, I hereby issue, pursuant to 14 CCR, Section 18365(b), approval of a one-year extension to the owner and operator of the Brawley Solid Waste Site to June 16, 2013.

Dated: 12/22/2011



Lorraine Van Kekerix

Branch Chief

Waste Evaluation and Enforcement Branch

Attachment - Request Letter (December 8, 2011)





## COUNTY OF IMPERIAL

# PUBLIC HEALTH DEPARTMENT

### DIVISION OF ENVIRONMENTAL HEALTH

797 Main Street, Ste. B • El Centro, CA 92243

Phone (760) 336-8530 • Fax (760) 352-1309

ROBIN HODGKIN, M.P.A.  
Director

STEPHEN W. MUNDAY, M.D., M.P.H.  
Health Officer

December 8, 2011

Lorrain Van Kekerix, Branch Chief  
California Department of Resources, Recovery and Recycling  
Waste Evaluation and Enforcement Branch  
P.O. Box 4025, MS 10A-17  
Sacramento, CA 95812-4025

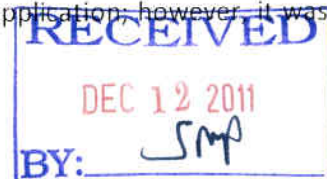
**REQUEST FOR A DEADLINE EXTENSION FOR ISSUANCE OF NOTICE AND ORDER FOR PENALTY ASSESSMENT NO. EA-2011-06 BY THE COUNTY OF IMPERIAL LOCAL ENFORCEMENT AGENCY IN THE MATTER OF THE BRAWLEY SOLID WASTE SITE (13-AA-0008)**

Ms. Van Kekerix,

Pursuant to the California Code of Regulations, Title 14, Section 18365, the County of Imperial Local Enforcement Agency is requesting approval from CalRecycle to consolidate outstanding compliance orders for the Brawley Solid Waste Site (13-AA-0008) into Notice and Order for Penalty Assessment No. EA-2011-06. This will result in the issuance of civil administrative penalties against the operator for failure to comply with State Minimum Standards and prior orders by the LEA; however, this will also effectively extend the final compliance date of Amended Notice and Order No. EA-2008-04 and Notice and Order No. EA-2010-05 for an additional year from the date of inclusion on the State Inventory to **June 16, 2013**.

#### Background

In February of 2002, the County of Imperial Department of Public Works, the owner and operator of the Brawley Solid Waste Site entered into a participation agreement with CalRecycle to submit an approved Final Closure Plan and initiate closure activities at this site. The County also agreed to close three other landfills in lieu of the California Integrated Waste Management Board pursuing cost recovery for remediation work conducted at the site to protect waste in place adjacent to the New River. A Final Closure Plan was initially submitted in April of 2003 with a permit revision application; however, it was never approved by the LEA or the CIWMB due to technical deficiencies.





More recently, on February 16, 2007, the Imperial County LEA issued Notice and Order No. EA-2007-01 to the operator for failure to correct Intermediate Cover violations after the site was listed on the *State Inventory of Solid Waste Facilities that Violate State Minimum Standards* (State Inventory). The Notice and Order suspended the Solid Waste Facility Permit and directed the operator to immediately cease landfill operations at the site. The final shipment of waste to the site was received on February 10, 2007.

On November 20, 2008, the LEA issued Notice and Order No. EA-2008-04 to the operator for failure to submit an approved Final Closure and Post-Closure Maintenance Plan on or before May 19, 2009 and to initiate closure activities immediately upon approval of the Final Closure Plan. The final certification of closure was to be submitted prior to October 29, 2009. This Order also revoked the Solid Waste Facility Permit for the Brawley Solid Waste Site and no further landfill operations may occur at this location. The Notice and Order was subsequently amended on November 30, 2009 to provide the operator additional time to complete the submittal of an approved Final Closure Plan due to contracting delays. The Brawley Solid Waste Site was included on the State Inventory for failure to comply with 27 CCR 21110 [Time Frames for Closure] on June 16, 2010 and the final compliance deadline to submit an approved Final Closure/Post-Closure Maintenance Plan was established as October 18, 2010, with an Order by the LEA to complete final closure construction by **October 18, 2011**.

Additionally, on July 12, 2010, the Imperial County LEA issued Notice and Order No. EA-2010-5, which directed the operator to submit an engineered design for the installation of a gas control system at the site. The landfill gas control system was to be installed prior to **October 18, 2011** to remediate excessive gas concentrations documented at the permitted facility boundary since February of 2010. Two perimeter probes (P-4R and P-4) located at the southeastern boundary of the site have continued to exceed 5% methane by volume at the deep probe levels. The Brawley Solid Waste Site was included on the State Inventory for failure to comply with 27 CCR 20937 on October 6, 2010.

Please note that the operator has fully complied with other several other orders issued by the LEA during this same time period, including Notice and Order No. EA-2011-03 issued for violations of 27 CCR 20530 [Site Security], Notice and Order No. EA-2010-06 issued for violations of 27 CCR 20820 [Drainage and Erosion Control], and Notice and Order for Penalty Assessment No. EA-2009-02 issued for violations of 27 CCR 20830 [Litter Control].

#### **Administrative Civil Penalties**

Upon approval by CalRecycle, the Imperial County LEA intends to issue the attached Notice and Order for Penalty Assessment (NOPA) No. EA-2011-06 to the Imperial County Department of Public Works for failure to comply with State Minimum Standards for 27 CCR 21780 [Submittal of Closure Plan, 21110 [Time Frames for Closure], 20921 [Gas Monitoring and Control] and 20937 [Reporting and Control of Excessive Gas Concentrations]. With the issuance of the NOPA, the operator of the site will be assessed administrative civil penalties of a specified amount for each and every day the violations continue beyond October 18, 2011. These penalties, while continually accrued, will also be held in abeyance conditional upon the operator meeting the terms of the NOPA. Failure to comply with the Order or to make reasonable progress with the Order will result in the immediate assessment of accrued penalties.

If the operator fully complies with the terms of the NOPA, the administrative civil penalties may be waived by the Local Enforcement Agency.





### One Year Extension of the Compliance Deadline

As the issuance of the attached Notice and Order for Penalty Assessment No. EA-2011-06 will effectively result in the extension of the final compliance deadline for closure of the Brawley Solid Waste Site until **June 16, 2013**, or one year beyond the expiration of a two-year period from the inclusion of the Brawley Solid Waste Site on the State Inventory, the LEA is requesting your approval pursuant to 14 CCR 18365 prior to the issuance of the NOPA.

As detailed in the attached correspondence from the operator dated November 2, 2011, the operator has made substantial progress toward the completion of a Final Closure and Post-Closure Maintenance Plan for the site, which involves a relatively complicated design due to its close proximity to the New River. In the most recent Final Closure Plan submitted by Geosyntec Consultants, Inc. in June of 2011 (revised November 2011), the closure design includes: a Waste Excavation and Relocation Plan, a New River Bank Stabilization System Design, a New River Bendway Weir Design (to reduce long-term bank erosion potentials), an Alternative Final Cover Design (with rock armoring for final cover erosion protection), a permanent Landfill Gas Control System Design, and a redesigned Surface Drainage Control System Design at the site. The Final Closure Plan is currently under technical review by the LEA, Regional Water Quality Control Board (RWQCB), and CalRecycle.

Additional delays for the initiation of final closure activities are also anticipated due to the extensive local, State, and Federal permitting requirements at the site, including CalRecycle, RWQCB, the U.S. Army Corps of Engineers, Air Pollution Control District, and the State Department of Fish & Game.

As conditions of approval for a one year extension, the LEA has ordered the operator to:

1. Submit a monthly written progress report by the 15<sup>th</sup> day of the following month to demonstrate actions taken to seek compliance with the Order;
2. Monitor methane levels monthly in Gas Probes 4 and 4R and report the results to the LEA in the monthly progress report until methane levels are less than 5% at the permitted facility boundary for a continuous period of six (6) months;
3. Pay the accrued administrative civil penalties immediately upon directive by the LEA due to a failure to make reasonable progress toward compliance, or upon failure to attain full compliance with State Minimum Standards by the specified compliance dates of the NOPA.

The LEA looks forward to your decision and will provide you additional information as necessary to complete a formal review. If you have further questions, please contact me at (760) 336-8530.

Sincerely,



Lars Seifert, REHS, Manager  
Local Enforcement Agency

Enclosure: Draft Notice and Order for Penalty Assessment No. EA-2011-06

cc: Jeff Hackett, CalRecycle  
Georgianne Turner, CalRecycle  
Jeff Lamoure, Deputy Director, IC Public Health





*Public Works works for the Public*



COUNTY OF  
IMPERIAL

November 2, 2011

DEPARTMENT OF  
PUBLIC WORKS

Local Enforcement Agency  
Imperial County Public Health  
Division of Environmental Health  
797 Main Street, Suite B  
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RE: Brawley Solid Waste Facility, Facility #13-AA-0008  
Final Closure and Post Closure Maintenance Plan  
Notice and Order Nos. EA-2008-04, EA-2010-05, EA-2011-03  
Violations 20530, 20921, 20937, 21110, 21780  
Area of Concern 20650

Attention: Lars Seifert

Dear Mr. Seifert:

We would like to provide a brief update of the progress we have made toward completion of the required Final Closure and Post Closure Maintenance Plan (FCPCMP) for the Brawley Solid Waste Site. The history of the facility is well documented so we will not include that information here. Instead, we are demonstrating our efforts by referring to the current Notice and Order Numbers and noting significant milestones. In addition, we are providing a realistic schedule for completion of the closure process.

The approach we have taken has been to coordinate closely with all stakeholders, identify the needs and requirements of each and work to meet established goals. We have been working with our Consultant, Geosyntec, to move this forward in close coordination with the Local Enforcement Agency (LEA), the Regional Water Quality Control Board (RWQCB), the Army Corps of Engineers (ACOE), California State Fish and Game (F&G) and the Air Pollution Control District. We have also been coordinating with other County of Imperial Departments, including the Planning Department and have kept the City of Brawley, an immediate neighbor of the landfill, up to date on our progress. We believe the response we have received to date has been very positive.

We will herein address each Notice and Order, from most recent to oldest:

#### **EA-2011-03, Site Security**

County Public Works has obtained an easement from the adjacent Riverview Cemetery to enable installation of additional perimeter fencing. That fencing has been installed. A recorded copy of the easement is attached along with a plan demonstrating the fence location. We expect these actions satisfy the requirements of **EA-2011-03**. We expect this will also satisfy noted violation **20530 – Site Security**.

#### **EA-2010-05, Landfill Gas**

At the time of preparation of Geosyntec's scope of services, there had been no report of any issues on site related to landfill gas. A landfill gas system was not included in the original scope. The initial readings of landfill gas in excess of allowable levels were brought to our attention on October 2010. Once our consultant retained to monitor the wells, the Bodhi Group, notified us of this issue, we took several





actions. First, we asked for their recommendation. We then reviewed the data and their recommendations with our overall FCPCMP consultant, Geosyntec.

Once we determined what we thought would be the best course of action, we consulted with the LEA and APCD regarding the test results and the appropriate response. We obtained a proposal from Geosyntec and executed a Modification Agreement with them for a Landfill Gas Pilot Study. During the study period, the gas levels were reduced to levels below the acceptable limits. Complete results of that Pilot Study are available on the Geosyntec Project Website. We have previously provided Geosyntec's Summary and Recommendations.

Due to the need to respond in a timely fashion to the LEA's Order in regards to Landfill Gas Compliance, the County will be taking action to implement the permanent landfill gas system as quickly as practicable. This will include obtaining a proposal for Geosyntec to design and install the permanent system. The schedule for that work is included on the attached Project Schedule.

After consultation with the LEA, the County has decided to implement the permanent system in advance of the construction of the final closure project, rather than wait and include it in the closure construction documents. It will of course be described and included in the FCPCMP. The Pilot Study included installation of wells and piping that will be part of the permanent system. Once the final closure construction project reaches a stage where it will begin impacting the Gas System, the equipment will be temporarily relocated. Once work in the area of the Gas System is complete, the system will be reinstalled.

We have taken appropriate and timely steps to respond to **EA-2010-05** and Violation **20921 – Reporting and Control of Excessive Gas Concentrations** and expect the process we are presenting, the installation of the permanent system and its inclusion in the FCPCMP will satisfy the requirements of the Notice and Order and the Violation.

#### **EA-2008-04, FCPCMP Completion**

As evidence of our significant progress toward completion of the FCPCMP, we are providing the attached list of Completed Milestones and our estimated Project Schedule. We are prepared to provide additional detail as necessary. The schedule demonstrates our best estimate of the process remaining to reach the ultimate goal of Final Closure. We appreciate your comments. We expect the process we are presenting, the anticipated approval of the Proposed FCPCMP and the implementation of the construction project, along with the proposed post closure maintenance will satisfy the requirements of **EA-2008-04, Violation 21110 – Time Frame for Closure, and Violation 21780 – Closure Plan**. We are of course taking steps as we progress to respond to any concerns related to the **Area of Concern, 20650 – Grading of Fill Surfaces**.

Respectfully,



William S. Brunet, P.E.  
Director of Public Works





Brawley Solid Waste Site  
Final Closure and Post Closure Maintenance Plan  
And New River Bank Protection  
Milestones Completed  
October 2011

Project Funding, Consultant Selection and Kickoff

- County Obtains Responses to Request for Proposal for Consultant Assistance September 2009
- Consultant Interviews, Initial Selection, Preparation of Final Scope and Fee Negotiation October 2009 – February 2010
- Board of Supervisors Design and Construction Funding Determination February 2010
- Board Authorization of Consultant Agreement April 2010
- Project Kickoff May 2010
- Initial Meetings with Agencies, including LEA, RWQCB, ACOE, State F&G May – July 2010

Base Data Collection

- Site Aerial Topography September 2010
- Waste Delineation Field Investigation and Mapping November 2010
- Site Record of Survey Complete October 2011
- Site Encumbrance Map Complete October 2011

New River Slope Protection

- North Slope Preliminary Studies (New River) June – July 2010
- North Slope Conceptual Design Concurrence from Agencies July – August 2010
- Prepare and Submit CLOMR June 2011
- Receive Approved Conditional Letter of Map Revision September 2011



## FCPCMP

- |   |                             |
|---|-----------------------------|
| • Analysis of Holtville Borrow Site Material* | September 2010 – March 2011 |
| • Cover Evaluation                            | March – May 2011            |
| • Preliminary Design Package                  | June 2011                   |
| • Revise and Submit FCPCMP (pending)          | November 2011               |

## Landfill Gas

- |  |                              |
|--|------------------------------|
| • Initial Reports, Analysis and Work Plan                                      | October 2010 – December 2010 |
| • Board of Supervisors Authorization Geosyntec<br>Modification for Pilot Study | March 2011                   |
| • Landfill Gas Pilot Study*  | April 2011 – September 2011  |
| • Landfill Gas Report and Recommendations*                                     | September 2011               |

Items \* Not included in initial scope





Brawley Solid Waste Site  
Schedule ~ October 2011

Description	Start	Days	Finish
Landfill Gas System			
Agreement for Design	10/17/2011	43	11/29/2011
Design and Permitting	11/30/2011	30	12/30/2011
Installation	1/2/2012	28	1/30/2012
FCPCMP			
Respond to LEA/CalRecycle Comments	10/6/2011	43	11/18/2011
CEQA Documentation			
Prepare Technical Studies	10/10/2011	39	11/18/2011
Circulate, Review and Comment	11/21/2011	29	12/20/2011
Revise and Resubmit	12/21/2011	9	12/30/2011
Environmental Evaluation Committee	12/30/2011	13	1/12/2012
Circulate, Review and Comment	1/16/2012	39	2/24/2012
Revise and Resubmit	2/27/2012	10	3/8/2012
Board of Supervisors CEQA Certification	3/12/2012	15	3/27/2012
Permitting			
RWQCB 401	4/2/2012	180	9/29/2012
StateFish & Game 1602	4/2/2012	180	9/29/2012
USACE 404	4/2/2012	180	9/29/2012
Final FCPCMP Submitted and Approved	10/1/2012	1	10/2/2012
Construction Documents			
Prepare 100% Submittal	7/30/2012	90	10/28/2012
Review and Comment	10/29/2012	30	11/28/2012
Revise and Resubmit Final Documents	11/29/2012	30	12/29/2012
Construction Documents Approval	12/30/2012	16	1/15/2013
Construction			
Board of Supervisors Authorization to Advertise	1/15/2013	14	1/29/2013
Advertisement	1/30/2013	35	3/6/2013
Bid Opening	3/7/2013	1	3/8/2013
Contract Execution	3/9/2013	21	3/30/2013
Board of Supervisors Award	3/31/2013	14	4/14/2013
Notice to Proceed	4/15/2013	7	4/22/2013
Construction	4/23/2013	210	11/19/2013
Closeout and Final Reporting	11/19/2013	30	12/19/2013

